

REMARKS

Reconsideration of the present Application as amended is respectfully requested. Applicants have amended the claims, substantially in a manner suggested by the Examiner, to improve the form of the claims and place the present Application in condition for allowance. Applicants respectfully submit Applicants' amendments to the claims do not add new matter to the Application.

In the Office Action of July 27, 2006, the Examiner raised several objections and rejections that are summarized below.

I. Summary of Office Action

The Examiner has rejected the Information Disclosure Statement filed 12/2005. The Examiner contends that Applicants failed to comply with 37 C.F.R. 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 C.F.R. 1.56(c) most knowledgeable about the content of the information, of each patent that is not in the English language.

The Examiner acknowledges Applicants' claim for priority under 35 U.S.C. 119(a)-(d) based on an application filed as PCT/US02/06540 on March 1, 2002. The Examiner however contends that a claim for priority under 35 U.S.C. 119(a)-(d) cannot be based upon the provisional application, since the United States application was filed more than twelve months thereafter.

The Examiner has objected to claims 1, 3, 9, 13, 15, 17, 23, 27, 34 and 43 because of informalities.

The Examiner has rejected claims 5-7, 10-28, 33-35 and 38-56 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the invention.

The Examiner has rejected claims 5-7 and 33-35 as being vague and indefinite. The Examiner contends the claim reads control means sends "a signal to said first motor and said second motor" should read a signal to the first motor and another signal to the second motor.

The Examiner has rejected claims 10 and 38 as confusing. The Examiner contends the claims are unclear if the first and second inlet valves are the two inlet valves mentioned earlier in the claim. The Examiner also unclear if the first and second outlet check valves are the two outlet valves earlier mentioned in the claim.

The Examiner has rejected claims 14 and 42 as vague and indefinite. The Examiner contends that the close signal is sent to the switchable valve and not to "said outlet valve".

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The Examiner has rejected Claims 15-28 and 43-56 under U.S.C. 112, second paragraph, as being indefinite for failing to point out and distinctly claim the subject matter which Applicants regard as the invention.

The Examiner states that the claims are vague and indefinite because they set forth a method of testing the performance of a pump but have either no method steps (claims 43-56) or have only a single method step(mention in the last lines of claim 15).

Applicants shall address each of the objections and rejections in the Discussion that follows.

II. Discussion

A. Informalities

The Examiner has objected to claims 1, 3, 9, 13, 15, 17, 23, 27, 34 and 43 because of informalities. In particular, the Examiner has identified several instances in which Applicants have an obvious typographical error of a misspelling nature, or omission nature. These are summarized well in the Office Action.

Applicants greatly appreciate the careful reading of the claims by the Examiner. Claims 1, 3, 9, 13, 15, 17, 23, 27, 34 and 43 have been amended to overcome the Examiner's objections. Applicants' amendments to the claims are believed to address each and every omission and error identified by the Examiner. In the event any error was not addressed, or in the event additional errors are identified, Applicants stand ready to make corrections.

B. Rejections Under 35 USC § 112

The Examiner has rejected claims 5-7, 10-28, 33-35 and 38-56 as being indefinite for failing to particularly point out and distinctly claim the invention.

1. Claims 5-7 and 33-35

The Examiner contends claims 5-7 and 33-35 are vague and indefinite because in the last two lines of claims 5 and 33 the control means is said to send "a signal to said first motor and said second motor". This limitation sets forth that a single signal is sent to each of the motors. The Examiner contends that it is clear from the disclosure that the controller sends a signal to the first motor and another signal to the second motor.

Reconsideration of the Examiner's rejections in this regard is respectfully requested. Applicants respectfully disagree with the Examiner's assertion that the disclosure describes the controller sends a signal to the first motor and another signal to the second motor. Applicants refer, by way of example, to page 15 lines 32-33: "And, in the test mode, the control means 151 sends a

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signal to the first motor 135a and the second motor 135b." This language repeats verbatim, or nearly so, the language of the claim.

The disclosure, while not precluding the possibility that separate signals could be sent to the first motor and to the second motor, does not suggest that it is a necessity. A person having ordinary skill in the art would clearly understand that the invention could be worked by sending a single signal to both the first motor and the second motor, as well as by sending a first signal to the first motor and a second signal to the second motor.

Applicants respectfully submit that the present claims 5 and 33 are neither vague nor indefinite, but clearly point out and distinctly claim the invention. Applicants therefore submit that claims 5-7 and 33-35 are in a state for allowance.

2. Claims 10 and 38

The Examiner has rejected claims 10 and 38 as confusing. The Examiner contends it is unclear if the first and second inlet valves are the two inlet valves mentioned earlier in the claim. The Examiner also contends that it is unclear if the first and second outlet check valves are the two outlet valves earlier mentioned in the claim.

Reconsideration of the present rejection is respectfully requested in view of Applicants' amendment to the claims. Applicants amendments to claims 10 and 38, further clarify the identity of first and second inlet valves and first and second outlet check valves in the manner suggested by the Examiner.

Applicants respectfully submit such amendments do not add new matter to the application. And, such claim now fully comport with 35 USC Section 112 and are in condition for allowance.

3. Claims 14 and 42

The Examiner has rejected claims 14 and 42 as vague and indefinite. The Examiner contends that the close signal is sent, not to "said outlet valve" as recited, but to the switchable valve. The Examiner notes that it is the switchable valve which receives the close signal and the outlet valves have been disclosed as check valves (which are pressure responsive and do not normally receive a signal).

Reconsideration of the present rejection is respectfully requested in view of Applicants' amendment to the claims. Applicants have amended claims 14 and 42 to recite that the close signal is sent to the switchable valve as suggested by the Examiner. Applicants respectfully submit such amendments do not add new matter to the application. And, such claims now comport fully with 35 USC Section 112 and are in condition for allowance.

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4. Claims 14-28 and 43-56

The Examiner has rejected Claims 15-28 and 43-56, as being indefinite for failing to point out and distinctly claim the subject matter which Applicants regard as the invention. The Examiner contends that the claims set forth a method of testing the performance of a pump but have either no method steps or have only a single method step.

Reconsideration of the present rejection is respectfully requested in view of Applicants' amendment to the claims. Applicants have amended claims 15-28 and 43-56 to recite a method having at least two steps, one of providing an apparatus and one of operating such apparatus. Applicants respectfully submit the single step was sufficient to define a method. However, the present method is now defined in a further step.

Applicants respectfully submit such amendments do not add new matter to the application. And, such claims now comport fully with 35 USC Section 112 and are in condition for allowance.

C. Information Disclosure Statement

The Examiner has rejected the Information Disclosure Statement filed 12/2005 because it does not include a concise explanation of the relevance, as it is presently understood by the individual most knowledgeable about the content of the information, of each patent that is not in the English language.

Applicants do not have any further information as to the relevance of the reference. The reference was cited in an examination report and no further explanation was provided by the Examining Authority. However, Applicants have secured and presently file an abstract as supplied by the Derwent World Patent Index. This abstract is Applicants' present understanding of the relevance of the reference.

Applicant respectfully requests the Examiner to withdraw the objection to the Information Disclosure Statement.

D. Priority

The Examiner acknowledges Applicants' claim for priority under 35 U.S.C. 119(a)-(d) based on an application filed as PCT/US02/06540 on March 1, 2002. The Examiner however states that a claim for priority under 35 U.S.C. 119(a)-(d) cannot be based upon said application, since the United States application was filed more than twelve months thereafter.

Applicants respectfully submit that the claim for priority under 35 U.S.C. 119(a)-(d) based on an application filed as PCT/US02/06540 on March 1, 2002 was made in error. Applicants submit a Supplementary Oath and Declaration, claiming priority under 35 U.S.C 111,120, 363, 365 and 371

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based on the application filed as PCT/US02/06540 on March 1, 2002. Applicants respectfully submit that there is no requirement to amend the specification as page 1 lines 6 to 10 disclose a correct priority claim.

Applicant respectfully notes that Application No. PCT/US02/06540, which designated the U.S., is entitled under 35 U.S.C. § 119(e) to the benefit of U.S. Provisional Application No. 60/272,934. The first sentence of Application No. PCT/US02/06540, as originally filed, properly claims priority to the Provisional Application (see, e.g., MPEP § 201.11(III)(B).) Moreover, the priority claim to the Provisional Application was properly submitted and acknowledged in Application No. PCT/US02/06540.

For the above-described reasons, Applicants respectfully request acknowledgement of the priority relationship under 35 U.S.C. § 119(e) between Application No. PCT/US02/06540 and Provisional Application No. 60/272,934, and a corrected filing receipt.

FEES

Please charge the a three month extension of time fee under 37 CFR 1.17(a)(3)) of \$ 1020.00 to deposit account number 23-0503. If Applicant is mistaken in estimating fees Applicant authorizes the Commissioner to charge any required fees to Deposit Account 23-0503.

Please charge any underpayments or credit any overpayments associated with this communication to our Deposit Account 23-0503. A duplicate of this letter is enclosed for accounting purposes.

CONCLUSION

Applicants respectfully submit the present Application is in condition for allowance which action is earnestly solicited. Should the Examiner have any additional concerns regarding the allowance of this application, he is invited to contact the undersigned to further expedite the application.

Date: December 21, 2006

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Respectfully submitted,

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Enclosure: Abstract
Supplemental Declaration